

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

**FRANK TREADWAY, et al.,
Plaintiffs,**

**Civil Action No. 5:16-cv-12149
Honorable Irene C. Berger**

v.

**BLUESTONE COAL CORP., et al.,
Defendants.**

NOTICE FOR ENTRY OF JUDGMENT

NOW COME the Plaintiffs, and MOVE for the Court to enter a judgment against the Defendants in the amount of **\$897,267.68** as of March 17, 2019, in addition to such further daily penalties as may accrue thereafter at the rate of \$1,000.00 per day that each payment continues to be late, and incorporating by reference the March 5, 2019 Order of this Court, consistent with the agreement of the Parties, as follows:

1. On January 17, 2019, the Court received the Notice of Acceptance and Offer of Judgment (ECF No. 40) reflecting the agreement of the Parties to enter and be bound by a judgment in this matter based on the mediated settlement agreement and the forthcoming terms of the final order.
2. The Parties had further agreed that the Plaintiffs would not pursue the enforcement of the judgment if the Defendants made payment in keeping with the final approved settlement.
3. On March 5, 2019, the Court entered a final order (ECF No. 42) setting forth and approving the terms of the settlement in this case, which were to be incorporated by reference into the Judgment issued in this case.

4. As of March 17, 2019, the Defendants had failed to pay \$626,600.01 that was then due.

5. Pursuant to the terms of the final settlement, the Defendants are also due to make another payment of \$260,667.67 to the common fund, and a payment of \$10,000.00 to the class representatives, on or before June 23, 2019, by cashier's checks to Mountain State Justice as class administrator, for conveyance to the class members in accordance with the Mediated Settlement Agreement, final Order (ECF No. 42), and final Class Notice approved by this Court.

6. Daily penalties of \$1,000.00 per day continued to be assessed as to each additional day that each payment is late under the approved settlement.

7. As of March 17, 2019, the total sum outstanding under the settlement was **\$626,600.01 due immediately** and **\$270,667.67 due on or before June 23, 2019**, in addition to any further daily penalties assessed based on late payments.

WHEREFORE, the Court having received the Notice of Acceptance and Offer of Judgment, the final terms having been set forth in the March 5, 2019 Order of this Court, and the Defendants having fallen behind on payments, the Plaintiffs hereby **MOVE** that judgment be entered for all sums due under the Mediated Settlement Agreement as modified by agreement of the parties and by order of the Court, **totaling \$897,267.68** as of March 17, 2019, in addition to such further daily penalties as may accrue thereafter at the rate of \$1,000.00 per day that each payment continues to be late.

**Plaintiffs,
Frank Treadway, Joey Clark Hatfield,
and Charles W. Hensley,
By counsel,**

/s/ Samuel B. Petsonk
Samuel B. Petsonk (WVSB # 12418)
Bren J. Pomponio (WVSB # 7774)

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